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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,385	12/21/2001	Gabriel Garcia Montero	RSW920010210US1	1061
46320	7590	01/04/2006	EXAMINER	
CHRISTOPHER & WEISBERG, PA			WILLETT, STEPHAN F	
200 E. LAS OLAS BLVD			ART UNIT	PAPER NUMBER
SUITE 2040				2142
FT LAUDERDALE, FL 33301				

DATE MAILED: 01/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/026,385	MONTERO, GABRIEL GARCIA	
	Examiner	Art Unit	
	Stephan F. Willett	2142	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 30 November 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-11 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC 102

1. The following is a quotation of the appropriate paragraphs of 35 U. S.C. 102(e) that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1, 3, 5-6, 8-9 are rejected under 35 U.S.C. 102(e) as being anticipated by Hall with Patent Number 6,026,396.

1. Regarding claim 1, 6, Hall teaches a messaging system with topics and rules. Hall teaches a message server, col. 6, lines 14-15. Hall teaches a plurality of topics stored or posted, col. 5, lines 42-43 in a message server, col. 11, lines 18-21 or as “a help list devoted to the topic of using InfoMod itself, though this choice of example help topic should not limit the scope of the current disclosure”, col. 6, lines 29-33 and associated query, col. 9, lines 33-35. Hall teaches a plurality of subtopics associated with a topic, col. 9, lines 27-28. Hall teaches dynamic partitioning topics into subtopics, col. 6, lines 46-52 and a request processor for processing system requests in individual threads of execution as the “five exemplary message processors” that “forward it[messages] to all list members” so that messages are “filtered out”, col. 9-10, lines 51-17.

2. Regarding claim(s) 3, Hall teaches a server residing in a process address space, col. 5, lines 18-19.

3. Regarding claim(s) 5, 8-9, Hall teaches a plurality of threads of execution, each said thread hosting a process for communicating a message between one of said subtopics in said at least one message server and a message subscriber, col. 9-10, lines 53-14.

Claim Rejections - 35 USC 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 2, 4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hall with Patent Number 6,026,396 in view of Najmi with Patent Number 6,753,889.

4. Regarding claims 2, 4, 7, Hall teaches a messaging system with topics and rules. Hall teaches a message server, col. 6, lines 14-15. Hall teaches a plurality of topics stored or posted, col. 5, lines 42-43 in a message server, col. 11, lines 18-21. Hall teaches a plurality of subtopics associated with a topic, col. 9, lines 27-28. Hall teaches dynamic partitioning topics into subtopics, col. 6, lines 46-52 and a request processor for processing system requests in individual threads of execution as the “five exemplary message processors” that “forward it[messages] to all list members” so that messages are “filtered out”, col. 9-18, lines 51-52, 64. Hall teaches the invention in the above claim(s) except for explicitly teaching a JMS compliant message server and JVM. In that Hall operates to generate service message requests with a Java network the artisan would have looked to the messaging network arts for details of implementing a JAVA virtual machine. In that art, Najmi, a related network messaging network, teaches “for each JMS

topic”, col. 4, line 31 in order to provide topics. Najmi specifically teaches a JVM associated with an address or processor, col. 11, lines 8-10 and a JMS compliant message server, col. 3, line 59. Further, Najmi suggests using a “J2EE sever” on “servers appropriate to existing needs”, col. 2, lines 7-11 which will result from implementing JAVA. The motivation to incorporate a JVM and LMS insures that JAVA is supported. Thus, it would have been obvious to one of ordinary skill in the art to incorporate the JVM and JMS as taught in Najmi into the messaging system described in the Hall patent because Hall operates with different processor spaces and Najmi suggests that optimization can be obtained with JAVA. Therefore, by the above rational, the above claim(s) are rejected.

Response to Amendment

1. The limited structure claimed, without more functional language, reads on the references provided. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.
2. Applicant suggests “Hall fails to teach the claimed plurality of subtopics associated with a topic”, Paper Filed 11/30/05, Page 7, lines 14-15. However, Hall teaches “a help list devoted to the topic of using InfoMod itself, though this choice of example help topic should not limit the scope of the current disclosure”, col. 6, lines 29-33. Such a limited reading of the subtopics is not reasonable since clearly said subtopic is submitting “a query against the knowledge base” which creates a subtopic, as one example of topics and subtopics. The references should not be read in a vacuum, the teachings are not mutually exclusive, and must be taken in context of what was reasonable based on the subject matter as a whole as would have been understood at the time the invention was made to a person having ordinary skill in the art to which the subject matter

pertains. The descriptions in the references are not obfuscated by the numerous other suggested usages of said description in the reference. In addition, implicitly, impliedly and inferentially, various topics and subtopics are taught and language identical or verbatim is not required in an obvious rejection. Note that reasonable “inferences”, and “common sense” may be considered in formulating rejections for obviousness. Specifically, *In re Preda*, 401 F.2d 825, 159 USPQ 342, 344 (CCPA 1968) states “in considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom.” Also, *In re Bozek*, 416 F.2d 738, 163 USPQ 545, 549 (CCPA 1969) states that obviousness may be concluded from “common knowledge and common sense of the person of ordinary skill in the art without any specific hint or suggestion in a particular reference”. Additionally, see *In re Gauerke*, 24 CCPA 725, 86 F.2d 330, 31 USPQ 330, 333 (CCPA 1936), and *In re Libby*, 45 CCPA 944, 255 F.2d 412, 118 USPQ 94, 96 (CCPA 1958), and *In re Jacoby*, 309 F.2d 738, 125 USPQ 317, 319 (CCPA 1962), and *In re Wiggins*, 488 F.2d 538, 543, 1979 USPQ 421, 424 (CCPA 1973). Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

3. Applicant suggests “this cited portion of Hall, however, fails to teach the above-identified claimed limitation”, Paper Filed 11/30/05, Page 7, lines 12-14. However, the cited portion also teaches the “query” creates the subtopic as a “list”. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

4. Applicant suggests “the teachings found in column 9, line 51 through column 10, line 17 of Hall are only directed to message handling functions”, Paper Filed 11/30/05, Page 8, lines 11-12. However, the cited portion also teaches a “Check-Knowledge-Base Handler” that enables

the “query” to create or convert the subtopic as a “list”. Thus, Applicant’s arguments can not be held as persuasive regarding patentability.

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

3. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephan Willett whose telephone number is (571)272-3890. The examiner can normally be reached Monday through Friday from 8:00 AM to 6:00 PM.

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Andrew Caldwell, can be reached on (571)272-3868. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

6. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571)272-

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2100.



ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER

sfw
December 22, 2005